

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

ANTOINETTE MARQUEZ,

Plaintiff,

v.

No. 1:24-cv-00423-KG-JMR

AMBER BAKER-CHAVEZ, *et al.*,

Defendants.

**ORDER OVERRULING OBJECTION**

Plaintiff filed a Second Motion for Service asking the Court to serve process on Defendants Billy Cobos, Jennifer Lopez, Stephen Matthew Torres, Teresa Hanlon, and Trujillo Dodd, Torres, O'Brien, LLC/DBA Family Law Firm, LLC. *See* Doc. 124, filed March 25, 2025.

United States Magistrate Judge Jennifer M. Rozzoni ordered the Clerk to notify those Defendants that an action has been commenced and request that they waive service pursuant to Fed. R. Civ. P. 4(d). *See* Order, Doc. 132, filed April 4, 2025.

Plaintiff objects to Judge Rozzoni's Order regarding notice and request for waiver and moves the Court to order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the Court pursuant to Fed. R. Civ. P. 4(c)(3) and 28 U.S.C. § 1915. *See* Motion to Object to Judge Rozzoni's Orders and Motion to Compel Plaintiff's Motion of Service on Defendants, Doc. 134, filed April 15, 2025 ("Objection and Motion"). Plaintiff asserts that the notice and waiver process "will only prolong" this case and "prejudice not only the Plaintiff, but the Defendants that have already filed" and may result in additional delay if the Defendants subject to Judge Rozzoni's Order do not respond to the request for waiver thereby causing Plaintiff to file another motion for service. Objection and Motion at 2.

The Court overrules Plaintiff's Objection to Judge Rozzoni's Order and denies Plaintiff's Motion to serve the Defendants identified in Judge Rozzoni's Order. Plaintiff does not explain how Judge Rozzoni's Order will prejudice the Defendants that have already appeared in this case. Those Defendants have filed motions to dismiss which the Court expects to rule on shortly. Plaintiff's concern about Defendants Stephen Matthew Torres, Teresa Hanlon, and Trujillo Dodd, Torres, O'Brien, LLC/DBA Family Law Firm, LLC, not responding to the request to waive service is now moot because those Defendants have waived service. *See* Waiver of the Service of Summons, Doc. 139, April 29, 2025. Defendants Billy Cobos and Jennifer Lopez have not yet waived service. Plaintiff's concern that Defendants Cobos and Lopez' failure to respond will cause substantial delay and prejudice is premature.<sup>1</sup> The deadline for Defendants Cobos and Lopez to waive service is May 19, 2025. Finally, Judge Rozzoni's Order regarding notice and waiver of service is not clearly erroneous or contrary to law because neither Fed. R. Civ. P. 4(c)(3) nor 28 U.S.C. § 1915(d) specify when the Court must order service. *See* Fed. R. Civ. P. 72(a) ("The district judge in the case must consider timely objections and modify or set aside any part of the [Magistrate Judge's] order [regarding non-dispositive pretrial matters] that is clearly erroneous or is contrary to law").

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<sup>1</sup> Plaintiff's concern about delay and prejudice also seems to be somewhat disingenuous. Plaintiff filed this case on May 2, 2024, and delayed proceedings in this case by repeatedly failing to comply with Judge Rozzoni's Orders regarding amended Complaints. Plaintiff's conduct delayed this case for almost nine months until she finally complied and filed her Fifth Amended Complaint on January 31, 2025. Plaintiff has also filed several improper motions that required the Court and Defendants to expend valuable resources addressing those motions. *See* Order, Doc. 107 at 7-11, filed January 13, 2025 (identifying Plaintiff's 12 motions to strike that did not comply with the Local Rules of Civil Procedure and Plaintiff's motion to "deny" an answer, which did not cite any legal authority supporting the motion or explain what it means to "deny" an answer).

**IT IS ORDERED** that Plaintiff's Motion to Object to Judge Rozzoni's Orders and Motion to Compel Plaintiff's Motion of Service on Defendants, Doc. 134, filed April 15, 2025, is **OVERRULED** and **DENIED**.

/s/ KENNETH J. GONZALES<sup>2</sup>  
CHIEF UNITED STATES DISTRICT JUDGE

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<sup>2</sup> Please note that this document has been electronically filed. To verify its authenticity, please refer to the Digital File Stamp on the NEF (Notice of Electronic Filing) accompanying this document. Electronically filed documents can be found on the court's PACER public access system.